



December 10, 2003

Mark W. Sajewycz
Gowling Lafleur Henderson
Commerce Court West, Suite
Toronto, Ontario M5L 1J3
Canada

In re application of:
Brotherston et al DECISION ON PETITION
Serial No.: 09/745,522
Filed: December 26, 2001
For: COMMODE CHAIR SEAT

This is a decision on the petition received on June 23, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice of Missing Parts of Application mailed February 5, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned April 6, 2001. The notice of abandonment was mailed on June 2, 2003.

On June 23, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney responded to the Notice of Missing Parts on April 27, 2001.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice of Missing Parts on April 27, 2001.

The petition is hereby Granted.

The application has been completed for release to Technology Center 3636.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

BROTHERSTON et al.

Application No.: 09/745,522

Filed: 12/26/2001

For: COMMODE CHAIR SEAT

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Examiner:

Group Art Unit:

Allowed:

June 20, 2003

The Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Office of Petitions

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PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW NOTICE OF ABANDONMENT

Sir:

Applicant respectfully requests the Commissioner to restore the above-identified abandoned application to pending status on the ground that Applicant properly submitted the required Response to Notice to File Missing Parts of Nonprovisional Application, as evidenced by the attached photocopy of the return receipt postcard showing receipt of the Response to the Notice to File Missing Parts of Application Filing Date Granted (PTO-1533)(Small Entity).

FACTS

1. A Notice to File Missing Parts of Nonprovisional Application was mailed on February 5, 2001.
2. On April 26, 2001, the Applicant filed the following:
 - (a) a Response to Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533)(Small Entity);
 - (b) A copy of the Notice to File Missing Parts of Nonprovisional Application;
 - (c) An executed Declaration and Power of Attorney for Patent Application; and

(d) A Return Receipt postcard.

Copies of each of these documents are attached as Appendix A.

2. These documents were transmitted to the United States Patent and Trademark Office by way of courier.
3. The Response to Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533)(Small Entity) and the Declaration and Power of Attorney referred to the serial number as 09/745,922, instead of the correct serial number, i.e. 09/745,522. However, the Notice to File Missing Parts of Nonprovisional Application was included with our filing, and identified the correct serial number.
4. Upon checking with your Customer Service Center, apparently our Response and fee transmittal documents have not been applied to either the incorrect serial number 09/745,922 or the correct serial number 09/745,522.

RELIEF REQUESTED

The Commissioner is respectfully requested to restore the above-identified abandoned application to pending status since the Applicant has properly submitted the Response to the Notice to File Missing Parts of Nonprovisional Application.

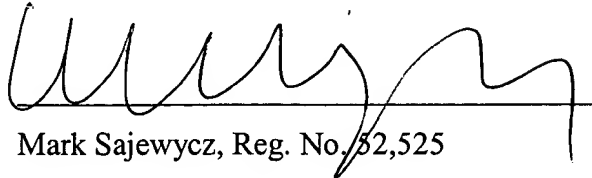
FEE

The Commissioner is hereby authorized to charge Deposit Account No. 07-1750 for any petition fee which may be due. However, since it is believed that the holding of abandonment is the result of circumstances not attributable to any fault of Applicant or his representatives, it is respectfully suggested that no fee is due.

Applicant's undersigned attorney may be reached in our Toronto office by telephone at 416-

862-5795. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark Sajewycz', is written over a horizontal line.

Mark Sajewycz, Reg. No. 52,525

Agent for the Applicant

Gowling Lafleur Henderson LLP
Commerce Court West, Suite 4900
Toronto, Ontario M5L 1J3
Canada

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number 09/745,522

Filing Date 12/26/2001

First Named Inventor Brotherston

Group Art Unit

Examiner Name

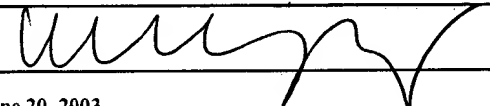
Total Number of Pages in This Submission

Attorney Docket Number K8000102US1

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Response	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	Petition Under 37 C.F.R. 1.181 to Withdraw Notice of Abandonment Copy of Notice to File Missing Parts of Application Copy of Response to Notice to File Missing Parts of Application and
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	Executed Declaration and Power of Attorney for Patent Application	

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Firm or Individual name	Mark W. Sajen, 26912 Reg No. 52,525
Signature	
Date	June 20, 2003

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JUN 26 2003

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the

Typed or printed name			
Signature		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



U.S. Patent Application No. 09/745,922
Applicant: BROTHERSTON, Ian et al.
Our File: K8000102US1
Title: Commode Chair Seat
Filing response to Notice to File Missing Parts
Due Date: **MAY 5, 2001**
Date: April 26, 2001
Timekeeper: M. Sajewycz 1616
(Broda Enterprises)

er No.
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.....
CARD AND RETURN
PATENT OFFICE OF

RECEIVED
APR 27 2001

CM1 7422

ENDERSON LLP

TECH CENTER 1600/2900

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GROUP 3600



Docket No.
K8000102US1

Declaration and Power of Attorney For Patent Application

English Language Declaration

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

the specification of which

(check one)

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☐ Is attached hereto.

☒ was filed on December 26, 2000 as United States Application No. or PCT International Application Number 09/745,922 and was amended on _____

(if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate or PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Priority Not Claimed

(Number)

(Country)

(Day/Month/Year Filed)

☐

(Number)

(Country)

(Day/Month/Year Filed)

☐

(Number)

(Country)

(Day/Month/Year Filed)

☐

I hereby claim the benefit under 35 U.S.C. Section 119(e) of any United States provisional application(s) listed below:

(Application Serial No.)

(Filing Date)

(Application Serial No.)

(Filing Date)

(Application Serial No.)

(Filing Date)

I hereby claim the benefit under 35 U. S. C. Section 120 of any United States application(s), or Section 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, C. F. R., Section 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

PCT/CA00/00836

July 17, 2000

Pending

(Application Serial No.)

(Filing Date)

(Status)
(patented, pending, abandoned)

(Application Serial No.)

(Filing Date)

(Status)
(patented, pending, abandoned)

(Application Serial No.)

(Filing Date)

(Status)
(patented, pending, abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. *(list name and registration number)*

Ingrid E. Schmidt, Registration No. 33,344

Robert F. Delbridge, Registration No. 24,969

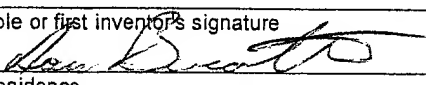
Arne I. Fors, Registration No. 20,775

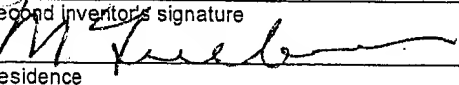
Robert Graham, Registration No. 43,430

Peter Milne, Registration No. 34,534

Send Correspondence to: Arne I. Fors
50 Queen Street N., Suite 1020
Kitchener, ON N2H 6M2
Canada

Direct Telephone Calls to: *(name and telephone number)*
Arne I. Fors, (519) 575-7501

Full name of sole or first inventor Ian Brotherston	
Sole or first inventor's signature 	Date 4/4/01
Residence 465 Reserve Avenue South, Listowel, Ontario Canada	
Citizenship Canadian	
Post Office Address 465 Reserve Avenue South,	
Listowel, Ontario Canada N4W 2L2	

Full name of second inventor, if any Michael B. Truelove	
Second inventor's signature 	Date 28 03 01
Residence 45 MacPherson Street, Stratford, Ontario Canada	
Citizenship Canadian	
Post Office Address 45 MacPherson Street,	
Stratford, Ontario Canada, N5A 1W1	

**Associate Power Of Attorney Or Agent (37 CFR 1.34)
(For Representation Related To A Patent Application)**

Docket No.
K8000102US1

In Re Application Of:

BROTHERSTON ET AL.

Serial No.
09/745,522

Filing Date
12/26/2001

Examiner

Group Art Unit

Invention:

COMMODE CHAIR SEAT

TO THE COMMISSIONER FOR PATENTS:

Please recognize the following as ☒ Associate Attorney ☐ Associate Agent in this application.


Name: **Mark W. Sajewycz**

Reg. No.: **52,525**

Address: **Gowling Lafleur Henderson LLP
Commerce Court West, Suite 4900
Toronto, Ontario
M5L 1J3**

Tel. No. **416-862-7525**

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Signature of Principal Attorney or Agent of Record

**Arne I. Fors, Reg. No. 20,775
Gowling Lafleur Henderson LLP
Commerce Court West, Suite 4900
Toronto, Ontario M5L 1J3
Canada**

Registration Number & Address of Principal Attorney or Agent of Record

Dated: **June 20, 2003**

I certify that this document is being deposited on
with the U.S. Postal Service as first
class mail under 37 C.F.R. 1.8 and is addressed to the
Commissioner for Patents, P.O. Box 1450, Alexandria, VA
22313-1450.

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/745,522	12/26/2000	Ian Brotherston	K8000102US1

Arne I. Fors
Gowling Lafleur Henderson LLP
Suite 1020
50 Queen Street North
Kitchener, ON N2H 6M2
CANADA



CONFIRMATION NO. 1784

ABANDONMENT/TERMINATION
LETTER

OC000000010163686

Date Mailed: 06/02/2003

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 02/05/2001.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

A copy of this notice **MUST** be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

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